

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

02-CR-0069

WHIRLEE RUDOLPH,

Defendant.

THOMAS J. McAVOY
Senior United States District Judge

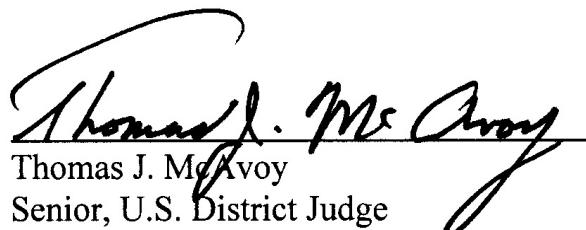
DECISION and ORDER

Defendant moves pursuant to Fed. R. Crim. P. 35 or, in the alternative, 28 U.S.C. § 2255, to have this Court declare that his federal sentence runs concurrently with his later imposed state sentence. Because the instant motion was made more than seven days after sentencing, no relief may be afforded under Rule 35(a). No relief can be afforded under Rule 35(b) because the government has not made such an application. No relief can be afforded under 28 U.S.C. § 2255 because such a petition would be untimely (more than one year after judgment was entered and more than one year after Defendant was paroled by the State of New York and released into the custody of the U.S. Marshals Service) and Defendant has failed to demonstrate any grounds warranting relief under § 2255.

For the foregoing reasons, Defendant's motion is DENIED.

IT IS SO ORDERED.

Dated:January 24, 2008



Thomas J. McAvoy
Senior, U.S. District Judge